

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARUT PANCHITKAEW,

Plaintiff,

- against -

CV-18-0956 (JMA) (SIL)

ANSWER

DT. SGT. DANIEL J. DANZI, POLICE OFFICER
STEVEN SCHWARTZ, POLICE OFFICER
JOSEPH SALVATORE, POLICE OFFICER
CRAIG CLARK, and AMBULANCE
MEDICAL TECHNICIAN CHRISTINA
COSENTINO,

Defendants.

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Defendants, Dt. Sgt. Daniel J. Danzi, Police Officer Steven Schwartz, Police Officer Joseph Salvatore, Police Officer Craig Clark and Ambulance Medical Technician Christina Cosentino (hereinafter collectively referred to as the “Defendants”), by their attorney, Jared A. Kasschau, Nassau County Attorney, by Liora M. Ben-Sorek, Deputy County Attorney, answer the Complaint upon information and belief as follows:

1. Deny knowledge or information sufficient to form a belief as to the allegations contained in Section I of the Complaint.
2. Deny the allegations contained in Section I.A of the Complaint.
3. Deny knowledge or information sufficient to form a belief as to the allegations contained in Section I.B.1 of the Complaint.
4. Deny the allegations contained in the unnumbered Section and paragraphs that precede Section II of the Complaint located on PageID#: 6.
5. Deny knowledge or information sufficient to form a belief as to the allegations contained in Section II of the Complaint.

6. Deny knowledge or information sufficient to form a belief as to the allegations contained in Section II.B. of the Complaint.
7. Deny the allegations contained in Section III Entitled “Statement of Claim” and “Injuries” of the Complaint.
8. Deny that Plaintiff is entitled to the relief he seeks in Section IV of the Complaint.
9. Deny knowledge or information sufficient to form a belief as to the allegations contained in Section V of the Complaint.

AFFIRMATIVE DEFENSES

10. Should Plaintiff recover damages as a result of a finding of liability in whole or in part as against the Defendants, such recovery should be reduced and diminished in proportion to the degree of comparative negligence or fault of the Plaintiff in contributing to such damages.
11. That if the Plaintiff sustained the damages as alleged in the Complaint, such damages were sustained solely through and by virtue of the negligent, wrongful, reckless and/or unlawful conduct of the Plaintiff without any negligence, wrongdoing, recklessness and/or unlawful conduct on the part of the Defendants, their agents, servants or employees contributing thereto.
12. The alleged acts or omissions of the Defendants were not the proximate cause of any injuries or damages allegedly incurred by Plaintiff. Any injuries or damages allegedly incurred by the Plaintiff were the result of his own actions, the actions of others and/or the superseding intervention of causes outside the control of the Defendants.
13. Plaintiff has not complied with Section 50-e and/or 50-I and/or 50-h of the General Municipal Law of the State of New York.

14. Plaintiff has not complied with Section 52 of the County Law of the State of New York.
15. Plaintiff has failed to exhaust all administrative and/or state remedies and prerequisites.
16. Plaintiff has failed to mitigate damages in this matter.
17. The Complaint fails to state a cause of action against the Defendants upon which relief can be granted.
18. At all times mentioned in the Complaint and herein mentioned, all employees of the Defendant County of Nassau alleged to have anything to do with the Plaintiff acted in good faith and without malice.
19. The actions complained of were in full accord with the applicable law.
20. Under the case of Monell v. New York City Department of Social Services there is no vicarious liability pursuant to the doctrine of respondeat superior and, consequently, Nassau County cannot be liable for any acts or conduct of any individual, as a matter of law.
21. The Defendants have not violated plaintiff's constitutional or statutory rights.
22. The County of Nassau, its agencies, departments and/or employees at all applicable times herein enjoyed a full, partial or qualified immunity from civil suit.
23. Punitive damages may not be recovered against the County of Nassau as a matter of law.
24. The Defendants have not been served with the Summons and Complaint and, therefore, this Court does not have jurisdiction over their persons.

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WHEREFORE, Defendants Dt. Sgt. Daniel J. Danzi, Police Officer Steven Schwartz, Police Officer Joseph Salvatore, Police Officer Craig Clark and Ambulance Medical Technician Christina Cosentino, demand judgment dismissing the Complaint in its entirety and with prejudice together with such other and further relief that this Court deems just and proper.

Dated: Mineola, New York
August 9, 2018

JARED A. KASSCHAU
Nassau County Attorney
One West Street
Mineola, New York 11501
Attorney for Defendants

By: *Liora M. Ben-Sorek*
Liora M. Ben-Sorek
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